IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 164 OF 2005

IN

SUIT NO. 3320 OF 2003

Malti Madhav Desai .. Plaintiffs

versus

Municipal Corpn. of Gr.Mumbau & ors... Defendants

...

Mr.S. Bhandary i/b Bhandary & Bhandary for the plaintiff.

Mr. G.V. Murti for the defendant nos.4 to 6.

Mr.H.V. Tendulkar for the defendant nos.1 to 3.

CORAM : D.G. KARNIK,J.

DATED : 4th March 2005.

P.C.:

1. The property originally belonged to the plaintiff and was auctioned by defendant no.1 i.e. for non payment of taxes. The defendant no.4 to 6

only claim to be the purchasers of the property. The suit has been filed by the plaintiff for setting aside of the auction. In the meanwhile, the defendant nos.4 to 6 have taken out the present motion for two reliefs. Firstly, the defendants claim that they should have allowed to inspect the property which they have purchased and in particular the portion which is presently occupied by the plaintiff. Secondly, they should be allowed to collect the rent.

2. So far as the first prayer is concerned, the learned counsel for the plaintiff states that the plaintiff has no objection for permitting the defendant nos.4 to 6 to carry out only the inspection of the property without prejudice to all rights and contentions of the plaintiff. As regards the second prayer, it is open to the defendant nos.4 to 6 to recover rent from the tenant and if they fail to pay, take appropriate action against the tenant as is available to them in law. No order is necessary in that regard from this Court. Hence, I pass the following order:-

3. There shall be ad-interim relief in terms of

prayer clause (b) provided that (i) the defendants give prior notice of date and time of inspection and (ii) this relief however would not entitle the defendant nos.4 to 6 to take inspection again and again but would entitle them to take the inspection only once.

4. No further ad-interim relief. Motion is made returnable in due course.

D.G. KARNIK,J